

2581-0137/dmf

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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DANA MILONE, an infant under the age of eighteen years, by **ANSWER**
her father and natural guardian, LOUIS MILONE,

Plaintiffs, 07 CV 3153 (SCR)

-against-

THE COUNTY OF DUTCHESS and DEPUTY SHERIFF
AARON R. MALONE,

Defendants.

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The defendants, by their attorneys, McCabe & Mack LLP, as and for their answer to
the complaint of the plaintiffs, respectfully show to the court and allege as follows.

INTRODUCTORY STATEMENT

1. With regard to paragraph numbered “1” of the complaint, neither admit nor
deny as states conclusions of law.

PARTIES

2. Deny knowledge or information sufficient to form a belief as to the truth of the
allegations contained in paragraph numbered “3” of the complaint.

3. With regard to paragraph numbered “6” of the complaint, admit only that
Dutchess County is a municipal corporation and Deputy Malone’s employer. Neither admit
nor deny the remaining allegations as states conclusions of law.

FACTUAL ALLEGATIONS

4. Deny knowledge or information sufficient to form a belief as to the truth of the
allegations contained in paragraph numbered “8” of the complaint.

5. With regard to paragraph numbered “9” of the complaint, admit only that

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Deputy Malone pulled Joseph Milone over for various traffic infractions and deny the remaining allegations.

6. With regard to paragraph numbered "11" of the complaint, admit only that Joseph Milone received two tickets and deny the remaining allegations.

7. With regard to paragraph numbered "12" of the complaint, admit only that Joseph Milone was directed to exit his vehicle and deny the remaining allegations.

8. With regard to paragraph numbered "14" of the complaint, admit only that plaintiff was arrested for disorderly conduct and deny the remaining allegations.

9. With regard to paragraph numbered "15" of the complaint, admit plaintiff was taken to a substation of the Sheriff's office and that upon learning she was a minor she was released.

10. Deny those allegations contained in paragraphs numbered "10", "13" and "16" of the complaint.

FEDERAL CAUSES OF ACTION

11. Repeat, reiterate and reallege each and every denial to each and every allegation contained in paragraphs numbered "1" through "16" and incorporated by reference in paragraph "17" of the complaint as if the same were more fully set forth herein at length.

12. Deny those allegations contained in paragraph numbered "18" of the complaint.

PENDANT STATE CAUSE OF ACTION

13. Repeat, reiterate and reallege each and every denial to each and every allegation contained in paragraphs numbered "1" through "16" and incorporated by reference in paragraph "19" of the complaint as if the same were more fully set forth herein at length.

14. Deny those allegations contained in paragraphs numbered "20" and "21" of the

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complaint.

15. With regard to paragraph numbered “22” of the complaint, neither admit nor deny and refer the Court to the documents for its content and import.

ATTORNEYS’ FEES

16. Deny those allegations contained in paragraph numbered “23” of the complaint.

AS AND FOR A FIRST AFFIRMATIVE DEFENSE

17. Probable cause existed for plaintiff’s arrest.

AS AND FOR A SECOND AFFIRMATIVE DEFENSE

18. Officer Malone acted in good faith and is entitled to qualified immunity.

AS AND FOR A THIRD AFFIRMATIVE DEFENSE

19. All force used, if any, was reasonable and necessary.

AS AND FOR A FOURTH AFFIRMATIVE DEFENSE

20. Plaintiff’s claim under the First Amendment fails to state a claim.

AS AND FOR A FIFTH AFFIRMATIVE DEFENSE

21. Plaintiffs failed to comply with the requirements of General Municipal Law §50-e *et seq* with respect to claims against municipalities.

AS AND FOR A SIXTH AFFIRMATIVE DEFENSE

22. Plaintiff’s claim for abuse of legal process fails to state a claim.

AS AND FOR A SEVENTH AFFIRMATIVE DEFENSE

23. Punitive damages are not recoverable against a municipality.

WHEREFORE, the defendant demands judgment dismissing the complaint of the

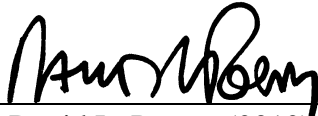
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plaintiff herein, plus the costs and disbursements of this action and for such other and further relief as to the Court may seem just and proper.

DATED: Poughkeepsie, New York
July 9, 2007

Yours, etc.

McCABE & MACK LLP

By: 
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